

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNIVERSAL TRADING & INVESTMENT
CO,

Plaintiff,

v.

KIRITCHENKO, ET AL,

Defendants.

No. C-99-03073 MMC (EDL)

**REPORT & RECOMMENDATION
DENYING MOTION FOR
TERMINATING SANCTIONS**

On November 17, 2006, Plaintiff filed a motion that requested, among other relief, terminating sanctions due to the asserted failure of Dugsbery to participate in discovery. See Doc. No. 1102. On December 11, 2006, Judge Chesney referred the dispute to the undersigned for a report and recommendation. See Doc. No. 1140. After a hearing on December 19, 2006, the Court ordered supplemental briefing on the issue. See Doc. No. 1213. After full consideration of the papers, the Court finds this matter appropriate for determination without further hearing.

Plaintiff's request for terminating sanctions should be denied. At best, Plaintiff has demonstrated insufficiently swift compliance by the Defendant and over-reliance on blanket objections – conduct that up to this point at most might justify lesser sanctions. Further, Defendant states that it expected to produce additional documents in response to discovery by January 31, 2007, and the status of that production unknown. Also, as Plaintiff recognizes, the issue of compelling documents from related criminal proceedings produced by foreign governments, which are apparently subject to treaty restrictions, would require detailed further briefing including documentation regarding confidentiality under applicable treaties, if any. Plaintiff may file a further, more targeted motion to

1 compel if justified, but only after meeting and conferring in-person and in good faith. Defendant is
2 warned, however, not to persist in improper blanket objections and to comply in good faith with the
3 Court's previous orders.

4 Any party may serve and file specific written objections to this recommendation within ten
5 (10) working days after being served with a copy . See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P.
6 72(b); Civil Local Rule 72-3. Failure to file objections within the specified time may waive the right
7 to appeal the District Court's order.

8
9 **IT IS SO ORDERED.**

10
11
12 Dated: February 7, 2007



13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ELIZABETH D. LAPORTE
United States Magistrate Judge